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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/810,060

Applicant(s)

LAURENT ET AL.

Examiner

Ed Baird

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 04 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Status of Claims

1. Applicant has amended claims 1, 8, 9, 13, and 15 in this application. No claims have been added or canceled. Thus, claims 1 – 18 are pending in this application and are presented for examination.

Response to Arguments

2. Applicant's arguments and amendments filed on 4 June 2008, with respect to rejections of claims 1, 8, 9, and 15 rejected under 35 U.S.C. § 112, 2nd paragraph, and claims 1 – 18 rejected under 35 U.S.C. § 103 (a) have been fully considered.

3. Examiner agrees with amendments to **claims 1, 8, 9, and 15** to rectify rejections under 35 U.S.C. § 112, 2nd paragraph and, in turn, withdraws rejections. Examiner acknowledges amendment to **claim 13** to alleviate antecedent problems.

4. Applicant's arguments and amendments with respect to rejections of claims 1 – 18 rejected under 35 U.S.C. § 103 (a) have been fully considered but have not been persuasive.

5. Applicant argues that **Hunt** teaches a single contract having a signal contract length and a single contract price whereas Applicant's claim 1 selects separate contracts to satisfy the derivative purchase request [Remarks/Arguments, page 10, 1st and 2nd paragraph]. Examiner notes that multiple contracts are not taught by **Hunt** as such, use of the system for multiple modes of transportation does not add patentable weight to the claim. Using Hunts system for multiple contracts suggests intended use of the invention. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art

structure is capable of performing the intended use, then it meets the claim. [see MPEP 7.37.09]. In turn, Examiner maintains rejection.

Claim Objections

6. **Claim 1** is objected to because of the following informalities: The word “between” appears to have been inadvertently deleted in the preamble.

Preamble should read: “A network-based, computer-implemented method of fulfilling freight shipment between a first location and a second location, the method comprising”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claim 1** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. **Claim 1** recites in the preamble: “A network-based, computer-implemented method of fulfilling freight shipment a first location and a second location, the method comprising”. It is unclear what the Applicant is trying to convey.

For the purposes of examination, the preamble will be interpreted to read as “A network-based, computer-implemented method of fulfilling freight shipment between a first location and a second location, the method comprising”. Appropriate correction is required.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1 – 7, 9, 13, 14, 17, and 18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh et al** (USPub. No. 2002/0069155) in view of **Hunt et al** (US Patent No. 5,724,524).

12. Regarding **claim 1**, **Nafeh** teaches:

- receiving a derivative purchase request for capacity between said first location and said second location, said derivative purchase request having contract requirements that specify at least a shipment volume and a performance time;
- ascertaining from a database of available derivative contracts a plurality of derivative contracts that satisfy said contract requirements; and
- selecting a subset of said plurality of derivative contracts to satisfy said derivative purchase request, said subset including at least a first derivative contract for a first transportation mode of at least two transportation modes and a second derivative contract for a second transportation mode of said at least two transportation modes, said first transportation mode being different from said second transportation mode.

Nafeh discloses an invention which includes methods and apparatus, to innovate trading of futures securities. This invention includes futures contracts tailored to specific clienteles; the notion of tickets and coupons as tradable futures contracts; the notion of redeemable bundles;

and notion of realization of the futures market on the Internet; the apparatus of an Internet-based trading interface and engine; the notion of cookie-cutter futures electronic Internet-based futures markets for each security; the feature of maximal reliance on the Internet; and the business concept of "profitability without the need for high trading volume." [Abstract].

Nafeh discloses a computer-network based futures trading system, or platform, which is electronically accessible by prospective traders, for enabling transactions related to futures contracts and futures contract bundles [0035]. Examiner notes that while **Nafeh** does not explicitly describe **receiving a derivative purchase request, ascertaining available derivative contracts, and selecting derivative contracts to satisfy said derivative purchase request**, one is inherently present in the system in that a futures trading system must include these functions by definition.

Nafeh does not specially disclose trading futures options in relation to transportation. However, **Hunt** discloses a method and system for listing and brokering a commodity and its financial derivatives [Abstract]. He further discloses object of his present invention as providing the financial markets with ability to **trade carrier capacity** [column 2, lines 65-68]. **Hunt** further describes a series of broad categories of the derivatives. These categories include carrier space available during a particular time period in a particular region; all carrier space utilizing a particular **mode of transportation** within a given time frame; or, a combination of categories [column 3, lines 35-43]. Examiner interprets **combination of categories** as inclusive of Applicant's **first and second transportation modes** which may be different modes of transportation. Examiner notes that multiple contracts are not taught by **Hunt** as such, use of the system for multiple modes of transportation does not add patentable weight to the claim. Using **Hunt's** system for multiple contracts suggests intended use of the invention. A recitation of the intended use of the claimed invention must result in a structural difference between the

claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include several modes of transportation as taught by **Hunt** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to cargo that may travel via two modes of transportation due to availability of such modes between different locations. For example, cargo between two seaports could often be sent by ship based due to access to seaports. However, inland origins or destinations would require an additional mode of transportation such as truck or air transport between seaport and inland location.

13. Regarding **claim 2**, the limitation: "said plurality of derivative contracts represent all derivative contracts in said database that satisfy said contract requirements" is a statement of intended use of the invention. As per MPEP 7.37.09: a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Since the statements of intended use do not further limit the claims, claim 2 is rejected for the same reasons as claim 1.

14. Regarding **claim 3**, **Nafeh** teaches the limitation: "subset, of potentially suitable derivatives contracts, is selected using a fair and neutral trading rule". **Nafeh** discloses his invention to act as a government sanctioned institution to interact with government regulatory agencies so that all activities within the platform comply with government regulations and principles of fairness, integrity, and public transparency [0033]. Examiner interprets principles of

fairness, integrity, and public transparency as equivalent to Applicant's fair and neutral trading rule.

15. Regarding **claim 4**, **Nafeh** teaches the limitations:

- receiving data pertaining to capacity releases from shippers, each of said capacity releases specifying a shipment volume and an origination point and a destination point, each of said capacity releases further specifying performance details including one of a departure time, a time en-route, and an arrival time;
- bundling selected ones of said capacity releases into said available derivative contracts, wherein at least one of said available derivative contracts comprises a plurality of said capacity releases.

Nafeh discloses using a computer-network based futures trading system, or platform, to provide accessibility to prospective **traders**, for enabling transactions related to futures contracts and **futures contract bundles** [0035].

16. Regarding **claim 5**, **Nafeh** does not specifically disclose the limitation:

- bundling includes grouping capacity releases that involve geographically proximal origination and destination points.;

However, **Hunt** discloses a method and system for listing and brokering a commodity and its financial derivatives [column 3, lines 1-6]. He further discloses identifying a plurality of characteristics of a particular commodity and identifies these characteristics to include a geographic start point and a geographic end point; a start date and a finish date; a start time and a finish time; a volume; a mode of transportation; and, a cost [column 3, lines 6-25]. Examiner interprets characteristics of geographic start point and a geographic end point as equivalent to Applicant's bundling "data" according to geographically proximal origination and

destination points. Examiner interprets characteristics of a particular commodity to include Applicant's capacity releases.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include characteristics of geographic start point and a geographic end point as taught by **Hunt** because financial derivatives in the cargo transportation industry would be sensitive to the distance and modes of transportation between the start and end points of cargo movement.

17. Regarding **claim 6 and 7**, **Hunt** teaches the limitation:

- bundling includes grouping capacity releases that fall within a time window;

Hunt discloses this (i.e. a start time and a finish time) as discussed in the rejection of claim 5, above [column 3, lines 17-25]. Examiner interprets characteristics of a start time and a finish time as equivalent to Applicant's bundling "data" that fall within a time window.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include characteristics of **a start time and a finish time** as taught by **Hunt** because financial derivatives in the cargo transportation industry would be sensitive to the time constraints regarding seasonal demands for commodities and shelf lives of some commodities.

18. Regarding **claim 9**, **Nafeh** teaches the limitations:

- receiving shipment forecasts pertaining to potential future shipments and self-assessed qualitative ratings associated with said shipment forecasts;
- aggregating said shipment forecasts and qualitative ratings into aggregated shipment forecasts and aggregated qualitative ratings; and

- furnishing said aggregated shipment forecasts and said aggregated qualitative ratings to a trader to enable said trader to evaluate a volume of derivative contracts to be purchased, said trader representing one of a market maker, a forwarder, and a carrier.;

Nafeh discloses his invention to act as an umbrella aggregator, facilitator, administrator and electronic platform for supporting a nearly unlimited number of simultaneous trading markets in hedge instruments, and to act as a disseminator of information pertaining to the activities on these markets [0029]. Examiner interprets acting as an aggregator to be equivalent to Applicant's **furnishing said aggregated shipment forecasts**. Examiner notes that the application of these functions to shipment forecasts are statements of intended use as discussed above in the rejection of claim 2, above.

19. Regarding **claim 13**, **Hunt** discloses providing the financial markets with ability to trade carrier capacity [column 2, lines 65-68]. **Hunt** further describes a series of broad categories of the derivatives. These categories include carrier space available during a particular time period in a particular region; all carrier space utilizing a particular mode of transportation within a given time frame; or, a combination of categories [column 3, lines 35-43]. Examiner interprets combination of categories as inclusive of Applicant's **first and second modes of transportation**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include several modes of transportation as taught by **Hunt** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to cargo that may travel via two modes of transportation due to availability of such modes between different locations. For example, cargo between two seaports could often be sent by ship based due to access to seaports. However, inland origins or destinations would

require an additional mode of transportation such as truck or air transport between seaport and inland location.

20. Regarding **claim 14**, **Nafeh** teaches providing a derivative contract trading facility to enable market makers to electronically trade said first derivative contract and said second derivative contract prior to expiration.

Nafeh discloses a computer-network based futures trading system, or platform, which is electronically accessible by prospective traders, for enabling transactions related to futures contracts and futures contract bundles [0035]. Examiner interprets computer-network based futures trading system as Applicant's **derivative contract trading facility**. Examiner notes that the **enabling market makers** to trade derivatives is a statement of intended use as discussed above.

Therefore, this claim is rejected for the same reason as claim 1, the claim upon this claim depends.

21. Regarding **claims 17 and 18**, **Nafeh** and **Hunt** teach all the items of claim 1, the claim upon which they depend. The limitations:

- derivative purchase request represents futures purchase request (claim 17), and
- said derivative purchase request represents option purchase request (claim 18)

are not further limiting because the terms derivatives include futures and options, i.e. futures and options are both derivatives. Since this statement does not further limit the claim, this claim is rejected for the same reasons as claim 1, the claim upon which they depend.

22. Claim 8 is rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh** in view of in further view of **Vergottis** ("An Econometric model of the world shipping markets", The City University, London, United Kingdom, 1988, 448 pages; AAT DX88207).

23. Regarding claim 8, **Nafeh** and **Hunt** do not teaches the limitation:

- providing an adjustment market facility for allowing a purchaser of said capacity between said first location and said second location pursuant to said subset of said plurality of potentially suitable derivative contracts to trade a specific component of said subset of said plurality of potentially suitable derivative contracts with other participants of the freight industry;

However, **Vergottis** teaches an aggregated econometric model of the world shipping markets [Abstract, 1st paragraph]. He further notes that **adjustment** process plays an important roll by the forward looking speculative positions of investors in the second hand and new building markets as related to shipping [Abstract, 3rd and 4th paragraph]. Examiner interprets the **adjustment** process as Applicant's adjustment market facility.

Examiner notes that while neither **Hunt** nor **Vergottis** explicitly describes allowing a purchaser of capacity between locations to trade specific components of derivative contracts with other participants of the freight industry, these are inherently parameters in freight futures. Examiner further notes that trading "with other participants of the freight industry" are statements of intended use of Applicant's invention. As per MPEP 7.37.09: a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Examiner interprets trading derivative contracts as Applicant's **trading specific components of derivative contracts**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include an **adjustment** process as taught by **Vergottis** because it allows a dynamic response of the shipping markets to anticipated and unanticipated external shocks [Vergottis, Abstract, 4th paragraph].

24. Claims 10 – 12, and 16 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh** in view of **Hunt** in further view of **Scheer** (USPub. No. US 2002/0138358).

25. Regarding **claims 10 and 11**, **Nafeh** and **Hunt** teach all the items of claim 9, the claim upon which it depends. **Nafeh** and **Hunt** do not teach the limitations:

- a self-assessed qualitative rating of said self-assessed qualitative ratings involves a shipper's self-assessment "**of at least four**" (claim 10 specific) of a set of criteria that includes demand, manufacturing readiness, manufacturing location, capacity, product, lane, and lane stability.

Scheer discloses a method for selecting a fulfillment plan for moving an item within a supply chain [Abstract]. He further discloses a supply chain management system and method which would allow companies to operate an entire supply chain on a "just in time" basis without requiring those companies to keep an excessive level of product safety stock on hand [0023]. Examiner interprets allowing companies to operate an entire supply chain as representative of Applicant's **self-assessed qualitative ratings**. Examiner interprets **operating a supply chain on a "just in time" basis** as representative of Applicant's manufacturing readiness.

The supply chain management system includes a database of forecast data [0024], which may be comprised of the following:

- Expected **consumption rates** based on historical data [0025]

- Deterministic **demand data** [0026]

Examiner interprets **consumption rates** as representing Applicant's capacity.

Scheer also considers excess inventory in regards to stocking levels for a particular **location**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include **supply chain management system and method** as taught by **Scheer** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to the supply and demand in the freight and transport industries.

26. Regarding **claim 12**, **Nafeh** and **Hunt** teach all the items of claim 9, the claim upon which it depends. **Nafeh** and **Hunt** do not teach the limitations:

- computing quantitative ratings pertaining to said shipment forecasts, said quantitative ratings being based at least on historical data pertaining to past shipment forecasts and past actual shipment volume;
- aggregating said quantitative ratings into aggregated quantitative ratings; and
- furnishing said aggregated quantitative ratings to said trader.

Scheer discloses compiling the historical demand data according to characteristics that affect the demand for items in a logistics network. The items are categorized by: 1) moving category; 2) demand rate; 3) number per order; 4) world factors; and 5) lead -time [0180]. He further discloses classifying a rate category of an item as having a "fixed" or "variable" demand rate based upon the rate based on demand over a given period of time [0182], and number per order category of an item as being either "single" or "lumpy" based upon the number of units of the item typically ordered [0183]. Examiner interprets **categorizing of these items** as representative of Applicant's **quantitative ratings pertaining to said shipment forecasts**.

Examiner notes compiling the historical demand data as Applicant's aggregating and furnishing quantitative ratings. Examiner notes furnishing quantitative ratings to trader as a statement of intended use as discussed earlier.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include **compiling the historical demand data** as taught by **Scheer** because the invention would allow a user to forecast the cost of futures securities based on data that is pertinent to cargo based on demand rate, quantity in an order, international factors; and lead -time.

27. Regarding **claim 16**, **Nafeh** and **Hunt** teach all the items of claim 1, the claim upon which it depends. **Nafeh** and **Hunt** do not teach the limitations:

- computing **freight** indices based on historical shipment volume between said first location and said second location; and
- furnishing said aggregated shipment forecasts and said aggregated qualitative ratings to a trader, said trader representing one of a market maker, a forwarder, and a carrier;

Scheer discloses compiling the historical demand data according to characteristics that affect the demand for items in a logistics network [0182 and 0183] as discussed in the rejection of claim 12. Examiner interprets **historical demand data** as Applicant's **freight indices**. Examiner notes furnishing forecasts and ratings to trader as a statement of intended use as discussed earlier.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include **compiling the historical demand data** as taught by **Scheer** because the invention would allow a user to forecast the cost of futures securities

based on data that is pertinent to cargo based on demand rate, quantity in an order, international factors; and lead -time.

28. Claim 15 is rejected under 35 U.S.C. 103 (a) as being unpatentable over **Nafeh** in view of **Hunt** in further view of **Talluri** (US Patent No. 6,263,315).

29. Regarding **claim 15**, **Nafeh** and **Hunt** teach all the items of claim 1, the claim upon which it depends. **Nafeh** and **Hunt** do not teach the limitations of providing data pertaining to said first derivative contract and said second derivative contract **to an electronic booking system** upon performance time of said first derivative contract to book capacity for shipment using said first mode and said second mode, respectively.

Talluri discloses revenue management software system that supports decisions to accept or deny requests for resource capacity (seats, rooms, volume/weight, air time, etc.). The system uses control logic accessing multidimensional lookup tables of price values for each resource [Abstract]. Examiner interprets **revenue management software system** as Applicant's **electronic booking system**.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Nafeh's** invention to include **revenue management software system** as taught by **Talluri** because the invention would allow a user to implement cargo shipments based on time constraints in transporting different types of cargo.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Baird whose telephone number is (571) 270-3330. The examiner can normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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